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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,937	12/16/2003	Edward Gerard Dolton III	ED-001	9641
39550	7590	02/17/2005	EXAMINER	
LAW OFFICES OF SCOTT H. KALIKO, P.A. 3503 RIO VISTA DRIVE MAHWAH, NJ 07430			PRINCE, FRED G	
			ART UNIT	PAPER NUMBER
			1724	
DATE MAILED: 02/17/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/736,937	Applicant(s) DOLTON, EDWARD GERARD	
	Examiner Fred Prince	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1203</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Throughout the specification "course" has been written where it appears that applicant intended --coarse--.

Appropriate correction is required.

2. The use of the trademark VELCRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. In the instant application, it should be noted that VELCRO is a type of hook-and-loop fastener.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

3. Claims 5, 15, and 17 are objected to because of the following informalities: "course" should be rewritten as --coarse--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 5-6 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The terms "coarse" and "fine" in claims 5-6 and 15-17 are relative terms which render the claim indefinite. The terms "fine" and "coarse" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Accordingly, since, clearly, what is considered "coarse" in one filtration operation may be considered "fine" in another, for examination purposes an apparatus which is capable of removing solids, i.e., it is apertured or porous, will be considered to meet the limitations of the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 4-6, 8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayes.

Hayes teaches a housing (42) defined by a top section (46), a rear section (44), two side sections (44), a bottom section (14), and a substantially hollow cavity (Fig. 3) that runs along the inner longitudinal axis of the housing, a handle means (34) mounted to

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the housing providing directional control and movement of the housing, a wheel means (16) movably mounted to the housing for facilitating forward, backward, and angular movement of the housing along the swimming pool surface, at least one electrically-operated debris agitator means (22) rotatably attached to the housing to facilitate water movement through the housing and the removal of debris from the swimming pool surface, a scraping means (20) attached to the bottom of the housing for scraping debris from the swimming pool surface, and a debris collection means (40) detachably connected to the housing that filters debris from pool water and that allows filtered pool water to exit from the debris collection means, and a filtration means (48).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-3, 7, 9-10, and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes.

Hayes teaches a housing (42) defined by a top section (46), a rear section (44), two side sections (44), a bottom section (14), and a substantially hollow cavity (Fig. 3) that runs along the inner longitudinal axis of the housing, a handle means (34) mounted to the housing providing directional control and movement of the housing, a wheel means (16) movably mounted to the housing for facilitating forward, backward, and

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angular movement of the housing along the swimming pool surface, at least one electrically-operated debris agitator means (22) rotatably attached to the housing to facilitate water movement through the housing and the removal of debris from the swimming pool surface, a scraping means (20) attached to the bottom of the housing for scraping debris from the swimming pool surface, and a debris collection means (40) detachably connected to the housing that filters debris from pool water and that allows filtered pool water to exit from the debris collection means, and a filtration means (48).

Hayes does not disclose an adjustable handle means or a handle pivotally attached to the housing.

In any case, it is submitted that it is well within the purview of the skilled artisan to provide a handle that is adjustable in length and pivotally attached to a housing in order to, for instance accommodate operators of different height while providing flexibility in movement (see, for example, US Pat No 5,336,403 to Marbach). Accordingly, it would have been readily obvious for the skilled artisan to have modified the cleaner of Hayes such that it includes a handle that is adjustable in length and pivotally attached to a housing in order to, for instance accommodate operators of different height while providing flexibility in movement.

Hayes does not disclose a debris agitator geared to rotational movement of wheels, electrically operated wheels, or a water-driven debris agitator.

In any case, it is submitted that it is well within the purview of the skilled artisan to have to provide an apparatus with a debris agitator geared to rotational movement of wheels, electrically-operated wheels, or a water-driven debris agitator in order to, for

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instance, maximize use of energy generated during operation of the apparatus and move wheels automatically (see, for example, US Pat No 5,507,058 to Minami et al.). Accordingly, it would have been readily obvious for the skilled artisan to have modified the cleaner of Hayes such that it includes a debris agitator geared to rotational movement of wheels, electrically-operated or a water-driven debris agitator in order to, for instance, maximize use of energy generated during operation of the apparatus.

Conclusion


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
2/14/05